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MEMO ENDORSED
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MICHAEL A. CARDOZO
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 Church St.
New York, NY 10007

PRATHYUSHA REDDY
Assistant Corporation Counsel
Tel: (212) 788-0963
Fax: (212) 788-9776

August 15, 2008

BY FAX

The Honorable Naomi R. Buchwald
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Andrew Mattox v. City of New York, et al., 07 CV 7266 (NRB)

Your Honor:

I am an Assistant Corporation Counsel in the Office of the Corporation Counsel, assigned to the defense of the above-referenced action. I write on behalf of both parties to respectfully request a brief adjournment of the discovery deadline from August 15, 2008, October 31, 2008.

This is the parties' first joint request for an extension of discovery.¹ To date, the parties have been engaging in paper discovery and have conducted the depositions of plaintiff, non-party witnesses Kim Serrano and George Cortes, and defendant Police Officer Sheldon Franklyn and Police Officer Hariton Marachilian.

In the course of discovery, the parties have learned that there may have been an additional witness to some or all of the incident, namely, the conductor of the subway train in which plaintiff was sitting when he was approached by the defendants. In addition, the parties are attempting to find out whether the MTA has maintained any report or documents relating to the incident. Accordingly, plaintiff has issued a subpoena upon the MTA for the name of the conductor and the aforementioned documents today.

In addition, plaintiff has requested the deposition of the desk sergeant who wrote entries regarding plaintiff on the command log at Transit District 4 on the date of the incident.

¹ Defendants previously requested an adjournment of the discovery deadline until July 31, 2008. At the July 14, 2008, telephone conference, the Court extended discovery until August 15, 2008.

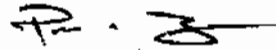
MEMO ENDORSED

Finally, defendants seek leave of the Court to take the deposition of non party witness Kendell Henle. Plaintiff objects to defendants' request and claims that it is an untimely request in light of the fact that Kendell Henle's name was provided to defendants in plaintiff's initial disclosures. Defendants find plaintiff's position to be disingenuous in light of plaintiff's recent request to take the deposition of the desk sergeant. Until yesterday, plaintiff did not seek to depose the desk sergeant from Transit District 4 despite the fact that defendants identified two sergeants from Transit District 4 to plaintiff on May 14, 2008. Moreover, should the Court grant the parties' joint request for an extension of discovery, plaintiff will not be prejudiced if defendants conduct Ms. Henle's deposition.

In light of the above, the parties respectfully request an extension of discovery until October 31, 2008. Furthermore, should the Court grant the parties' request, defendants respectfully request permission to depose non party witness Kendell Henle.

Thank you in advance for your consideration herein.

Respectfully submitted,



Prathyusha Reddy
Assistant Corporation Counsel
Special Federal Litigation Division

Applica-
tions
granted.
FINAL
Extension

cc:

BY FAX

Fred Lichtmacher, Esq.
Attorney for Plaintiff
350 5th Avenue
Suite 7116
New York, New York 10118